

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6483

Joint Petition of NewSouth Holdings, Inc. and)
NSHI Ventures, LLC for Approval of a Transfer)
of Control)

Order entered: 4/18/2001

I. INTRODUCTION

This case involves a joint petition filed on March 9, 2001, by NewSouth Holdings, Inc. ("NHI") and NSHI Ventures LLC, ("NSHI")(collectively the "Petitioners"), seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, for approval of a transfer of control whereby NSHI will acquire additional preferred stock and, thus, majority voting control of NHI and its Vermont operating subsidiary: NewSouth Communications Corporation ("NewSouth").

On April 3, 2001, the Vermont Department of Public Service ("Department") submitted a letter to the Board indicating that the Department had no objection to the transfer of control of NewSouth. The Department noted that the transaction would be transparent to Vermont consumers and would not involve a change in the management or services of NewSouth. Further, the Department also had no objection to the issuance of an order without hearing or further investigation, as provided under 30 V.S.A. § 107.

II. FINDINGS OF FACT

Based upon the petition and accompanying documents, the Board makes the following findings of fact.

1. NewSouth is a corporation authorized by the Board to provide telecommunications service in Vermont. NewSouth is a wholly-owned subsidiary of NHI. A Certificate of Public Good (CPG No. 587-R) was issued to NewSouth on September 21, 2000. Petition at 1.

2. NSHI and NHI are not currently certificated to provide telecommunications service in Vermont. Petition at 1.

3. NSHI, an existing 23% shareholder of NHI, seeks approval of a transaction whereby NSHI will be issued additional voting stock resulting in NHI holding a majority voting control of NHI and its subsidiaries, including NewSouth. Following completion of the transaction, NewSouth will continue to operate in all respects as it currently operates, pursuant to present operating authority. Neither the name of nor the terms and conditions of service offered by NewSouth will be affected by the transaction. Accordingly, the transaction should not inconvenience customers within the State of Vermont. Petition at 2-4.

4. Completion of the proposed transaction will serve the public interest in that it will promote competition among telecommunications providers by providing NewSouth with the opportunity to strengthen its competitive position and to pursue marketing and business plans more effectively. Petition at 4.

III. CONCLUSIONS OF LAW AND DISCUSSION

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility.¹ Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company. Section 107 requires a finding that the transfer of control will promote the public good. This standard is met in this case. The proposed transaction will promote the public good, because the transfer of control of NewSouth to NSHI will allow the Petitioners to operate in a more flexible manner. In the competitive arena of telecommunications, the overall effect of this transfer may promote more customer choice in terms of services, with stronger competitors in the Vermont telecommunications market. It should also be noted that the transfer of control will not have an adverse impact on Vermont consumers as NewSouth currently has no customers in Vermont and will continue to operate according to its present authority.

For all of the above reasons, the proposed transfer of control of NewSouth to NSHI should be approved.

1. Approval under 30 V.S.A. §§ 231 and 311 is not required because the current holder of the Certificate of Public Good, NewSouth, will continue to be the entity providing telecommunications service in Vermont.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The transfer of control of NewSouth Communications Corporation to NSHI Ventures LLC, is approved.
2. Petitioner shall notify the Board, within one week, upon completion of the transfer of control.

DATED at Montpelier, Vermont, this 18th day of April, 2001.

<u>s/Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

Filed: April 18, 2001

Attest: s/Judith C. Whitney

Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

